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RESOLUTION NO. 2020-05

**A RESOLUTION OF THE VILLAGE COMMISSION OF THE
VILLAGE OF BISCAYNE PARK, FLORIDA, FOR REMOVAL OF
THE VILLAGE MANAGER, KRISHAN MANNERS, AND
TERMINATION FOR CAUSE; AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, pursuant to Resolution 2017-32, on June 6, 2017, the Village Commission approved an Employment Agreement with Village Manager, Krishan Manners (“Manners”), whereby Manners agreed “to perform the functions and duties as specified in Section 3.01 [of] the Village Charter, and to perform such other legally permissible and proper duties as are required by the Village Commission from time to time.” (Employment Agreement, Sec. 1. A)

WHEREAS, the Employment Agreement provides, in part, that “...Village Manager shall serve at the pleasure of the Village Commission and nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Village Commission to terminate the services of the Village Manager at any time, subject only to the provision set forth in Section 7...” (Employment Agreement, Sec. 2.A)

WHEREAS, the relevant subparagraphs of the Employment Agreement, Section 7 address termination for cause, providing that:

A. In the event the Village Commission wishes to terminate the Village Manager, it shall do so in accordance with Section 3.03 of the Village Charter and the provisions of this Agreement.

....

D. In the event the Village Manager is terminated for just cause, such termination will take effect immediately and the Village shall have no obligation to pay the amounts outlined in this Agreement except for any accrued and unpaid salary and benefit earned, consistent with Village policies just cause is defined and limited to mean (1) breach of any material term or condition of this Agreement after ten (10) days written notice and an opportunity to cure (opportunity to cure not required if incurable offense); and (2) misconduct in office such as an act of fraud or dishonesty (3) misconduct as defined in Florida Statute, section 443.036(29) in which case, by statute, such payment would be prohibited; (4) gross insubordination; (5) willful neglect of duty; (6) a knowing or intentional violation of the International City/County Management Association, Florida or Miami-Dade County conflict of interest and code of ethics laws and Village Charter; (7) moral turpitude; or (8) conviction of any criminal act (except for minor traffic infractions).

WHEREAS, turning to the Village of Biscayne Park Charter, relevant portions provide that:

1 3.01- Village Manager.

2 (A) *Village Manager*. There shall be a Village Manager (the
3 “Manager”) who shall be the chief administrative officer of the Village.
4 The Manager shall be responsible to the Commission for the
5 administration of all Village affairs and for carrying out the policies of
6 the Commission.

7 (B) *Appointment; removal; compensation of the Manager*. ...The
8 Commission may remove the Manager at any time, as provided for in
9 Section 3.03. ...

10
11 3.03- Removal procedure.

12 The Manager and the Attorney (each to be referred to as “Charter
13 Officer”) may be suspended with pay, pending removal by a resolution
14 approved by the majority of the total membership of the Commission,
15 which shall set forth the reasons for suspension and proposed removal. A
16 copy of such resolution shall be served immediately upon the affected
17 Charter Officer. The affected Charter Officer shall have fifteen (15) days in
18 which to respond in writing; and upon request, shall be afforded a public
19 hearing, which shall occur not earlier than ten (10) days nor later than
20 fifteen (15) days after such hearing is requested. After the public hearing,
21 if one is requested, and after full consideration, the Commission by a
22 majority vote of its total membership may adopt a final resolution of
23 removal. The affected Charter Officer shall continue to receive full
24 compensation until the effective date of a final resolution of removal.
25

26 **WHEREAS**, the Village Commission has lost confidence in Manners, and wishes to
27 terminate his employment with the Village **for cause**.
28

29 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE**
30 **VILLAGE OF BISCAWAYNE PARK, FLORIDA, THAT:**
31

32 **Section 1.** The foregoing “WHEREAS” clauses are hereby ratified and
33 confirmed as being true and correct and are incorporated herein by this reference.
34

35 **Section 2.** The Village Commission finds that just cause exists to terminate the
36 Employment Agreement and Manners’ employment with the Village in connection with the
37 following:

38 A. Gross Insubordination

- 39 1. Manners exceeded his authority as Village Manager by instructing
40 the Attorney to institute a Petition for Writ of Quo Warranto and
41 Declaratory Relief (“Residency Challenge”) against a duly
42 residing, elected and sitting Commissioner on January 9, 2020.
43 2. Not only did Manners exceed his authority in commencing the
44 Residency Challenge, but he knew that the case was based on a
45 false premise, as evidenced by Manners delivering an agenda
46 packet to the Commissioner at his home address on January 10,
47 2020. After hearing presentations and taking evidence, the
48 unauthorized Petition was dismissed as being premature because

1 at the time of the filing the Commissioner resided at the home
2 address stated in his candidacy papers.

- 3 3. An Investigative Report by Miami Dade County Commission on
4 Ethics & Public Trust ("Ethics Commission") concludes "the
5 evidence establishes that after Truppmann advised Manners of her
6 unavailability for the [3/5/2019] meeting, he took it upon himself
7 to contact the other elected officials and as a result of these
8 contacts the meeting was cancelled. The other four elected
9 officials told investigator that they were not told that *only the*
10 *Mayor* was unavailable and that *the other four elected officials*
11 *were available to conduct the meeting in her absence.*"
- 12 4. While the Ethics Commission found insufficient evidence to
13 demonstrate that Manners exploited his position, Manners actions
14 in providing four Commissioners selective information to achieve
15 a rescheduling of the March 5, 2019, meeting was a manipulation
16 and a willingness to subvert the goals of the Commission to
17 proceed with the conduct of Village business as scheduled.

18
19 B. Willful Neglect of Duty

- 20 1. When the January 14, 2020, commission meeting, was not called
21 to order because quorum was not reached due to the unexplained
22 absence of Mayor Tracy Truppmann, Manners failed to follow the
23 Village Charter and have two new commissioners sworn in
24 outside the public meeting. Those two new commissioners would
25 have created the required quorum for the monthly commission to
26 take place. Because of Manners' neglect, the Village had no
27 commission meeting for the month of January 2020, which
28 included an advertised quasi-judicial variance hearing. The
29 cancelled January meeting was not rescheduled.
- 30 2. By his own admission, Manners intentionally did not provide
31 required written responses to requests for information related to
32 the audit of the Citizens Independent Transportation Trust and
33 related funds appropriate to the Village for transit and
34 transportation.
- 35 3. Failure of oversight with respect to attorney billings. By his
36 admission, Manners authorized payment of attorney invoices
37 without appropriate examination and without bringing the details
38 to Commission for review and approval.
- 39 4. Failure of oversight with respect to WastePro, and the irregularity
40 of services provided.
- 41 5. Failure to initiate competitive bidding at the appropriate time to
42 replace WastePro or leverage a better quality of service.
- 43

44 **Section 3.** For these reasons, and such others that may be articulated at the
45 reading of this Resolution, the Commission resolves that Manners be suspended with pay
46 and that the Removal procedures be initiated in accordance with the Charter, Section 3.03.
47

1 **Section 4.** Upon approval of this Resolution, Manners shall immediately
2 relinquish to the Sergeant at Arms all devices (phones, tablets, laptops, external drives), and
3 other electronic media, keys, passwords, and other means of access to Village property
4 (including accounts).

5
6 **Section 5.** During his suspension, Manners is prohibited from accessing Village
7 files or accounts, and he is prohibited from contacting Village employees, contract vendors,
8 residents or elected officials in any way, except that Manners is instructed to respond to
9 inquiries from an Interim Manager and/or Village Clerk on vital pending matters that
10 require attention.

11 **Section 6.** The Interim Manager and/or Village Clerk are instructed to immediately
12 communicate this suspension of Manners internally within the Village, to all vendors and to
13 residents, and to instruct the electronic/IT vendor to suspend Manners' access to all Village
14 electronic resources, including email. Village employees and vendors will be instructed to
15 not contact Manners during his suspension except as noted in Section 5.

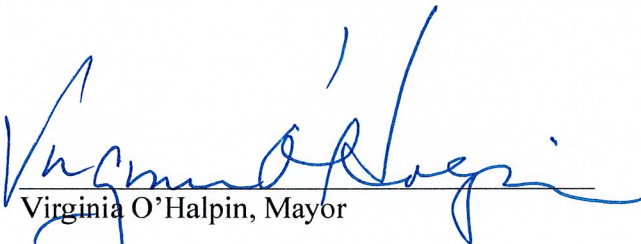
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17 **Section 7.** In accordance with the Charter, Manners shall have fifteen (15) days
18 from receipt of this Resolution to respond in writing and to request a public hearing, which
19 shall occur within 10-15 days after such request.

20
21 **Section 8.** In the event that a public hearing is not timely requested by Manners,
22 this Resolution shall be deemed a Final Resolution of Removal, and Manners employment
23 shall be terminated as of February 20, 2020.

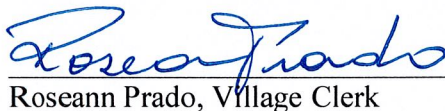
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25 **Section 9.** This Resolution shall become effective immediately upon its adoption.

26
27 **PASSED AND ADOPTED this 4th day of February 2020.**

28
29 The foregoing resolution upon being put to a vote, the vote was as follows:
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35 Virginia O'Halpin, Mayor

36
37 Attest:

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40 Roseann Prado, Village Clerk
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**The foregoing resolution upon being
put to a vote, the vote was as follows:**

Mayor O'Halpin: Yes
Vice Mayor Tudor: No
Commissioner Kennedy: Yes
Commissioner Samaria: